

Message Text

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PAGE 01 USUN N 01858 01 OF 02 180112Z

73

ACTION DLOS-07

INFO OCT-01 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-14 RSC-01

CG-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00

NSC-07 PA-04 PRS-01 SP-03 SS-20 USIA-15 CEQ-02 COA-02

COME-00 EB-11 EPA-04 IO-14 NSF-04 SCI-06 FEA-02

ACDA-19 AEC-11 AGR-20 DOTE-00 FMC-04 INT-08 JUSE-00

OMB-01 TRSE-00 OIC-04 DRC-01 /271 W

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FM USMISSION USUN NEWYORK

TO SECSTATE WASHDC 4146

C O N F I D E N T I A L SECTION 1 OF 2 USUN 1858

E.O. 11652: GDS

TAGS: PBOR EMIN FR JA UK UR

SUBJ: LOS GROUP OF 5 -- MEETING ON DEEP SEABED RULES

AND REGULATIONS: APRIL 17-19 SESSIONS

REF: USUN 01381

SUMMARY: GROUP OF 5 MET AT USUN TO EXCHANGE VIEWS ON
DEEP SEABED RULES AND REGS IN PREPARATION FOR LOS CONF.
END SUMMARY

1. ON ISSUE OF THE SIZE OF BLOCKS, US REP (RATINER)
OBSERVED THAT GROUP PROPOSALS WERE SIMILAR EXCEPT THAT
JAPANESE DRAFT PROPOSED RELINQUISHMENT. UK REP (ARCHER)
STRONGLY SUPPORTED RELINQUISHMENT AS RESOURCE MANAGEMENT
TOOL SUITABLE TO TECHNICAL REALITIES OF OCEAN MINING.
JAPANESE INDICATED THAT THEY SUPPORTED RELINQUISHMENT,
ALTHOUGH THEY WRE FLEXIBLE ON SIZE OF INITIAL AREA GRANTED
FOR EXPLORATION AS LONG AS EXPLOITATION BLOCK SIZE
WAS 20,000 SQUARE KILOMETERW. BOTH FRENCH AND USSR REPS
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PAGE 02 USUN N 01858 01 OF 02 180112Z

AGREED THAT RELINQUISHMENT WAS USEFUL FROM TECHNICAL

POINT OF VIEW, BUT ?3)83;3\$ 5#-5 7,\$34 6 53. 2#343 5-5ES
RECEIVED MINING RIGHTS, THEY SHOULD NOT BE REQUIRED TO
RELINQUISH AREAS BUT COULD IMPOSE THIS REQUIRMENT ON SUB-
LICENSEES.

2. ON DURATION OF MINING RIGHTS, JAPANESE REP EXPRESSED
SOME FLEXIBILITY ON PROPOSAL FOR NO TIME LIMIT 9, 48 .
USSR REP SUPPORTED FRENCH DRAFT PROPOSAL FOR 40 YEARS
PLUS 10 YEAR RENEWAL. US REP INDICATED THAT US DRAFT 20
PLUS 20 FORMULA ALLOWED NEW RULES TO BE INCLUDED IN LEGAL
ARRANGEMENT FOR SECOND 20 YEARS. FRENCH REP INDICATED THEY
COULD GOALONG WITH US APPROACH. UK REP SUPPORTED US PROPOSAL
FOR 20 PLUS 20 YEAR FIXED PERIOD. ON DURATION OF RIGHT TO
EVALUATE (EXPLORE), JAPANESE REP EXPRESSED SUPPORT FOR US
DRAFT (10 YEARS PLUS 5 YEQR GRACE PERIOLD) AND UK REP
INDICATED ACQUIESENCE TO US VIEW. FRENCH REP (LEGOUX)
THOUGHT 10 YEARS TOO LONG. USSR REP INDICATED VIEW THAT
THERE SHOULD BE NO REQUIREMENT THAT COMMERCIAL PRODUCTION BE
ACHIEVED BECAUSE OF LACK OF DATA UPON WHICH TO BASE PRE-
DICTION, ALTHOUGH USSR COULD ACCEPT PROVISION IN FRENCH
DRAFT WHICH REQUIRED FORFEITURE IF NO EVALUATION HAD
BEEN DONE IN FIRST FIVE YEARS.

3. ALL REPS SUPPORTED WORK REQUIRMENTS IN PRINCIPLE.
UK REP STATED PREFERENCE FOR HIGHER WORK REQUIREMENTS
THAN IN USB DRAFT, PERHAPS 80-90 PERCENT OF WHAT A REASONABLE
INVESTOR WOULD SPEND WITH ALLOWANCE FOR DIFFERENCE BETWEEN
PUMP AND BUCKET SYSTEMS AND AVERAGED OVER 3 YEARS. US REPS
(MOORE AND RATINER) DEFENDED LOWERE FIGURES BECAUSE INVESTMENT
COSTS IN FUTURE MAY BE MUCH LOWER THAN NOW AND ALTERNATIVE
WOULD BE TO GIVE DISCRETION TO AUTHORITY TO SET FIGURES.
USSR REP WAS OPEN-MINDED ON LEVEL OF WORK REQUIRMENTS.

4. FRENCH REP (LEGOUX) AND UK REP (ARCHER) STATED
PREFERENCE FOR DEFINITION OF COMMERCIAL PRODUCTION BY
QUANTITATIVE CRITERIA AND NOT INTENTION OF EXPLOITER AS
IN US DRAFT. USSR REP (KASMIN) AGREED COMMERCIAL PRODUCTION
SHOULD BE DEFINED IN RULES FOR REVENUE SHARING PURPOSES
BUT PERHAPS SHOULD BE INTERNAL DECISION OF STATE FOR OTHER
PURPOSES.

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PAGE 03 USUN N 01858 01 OF 02 180112Z

5. US REP (RATINER) EXPLAINED US POSITION THAT RIGHTS
SHOULD BE HDLD ONLY IN CATEGORIES OF MINERALS IN AN AREA
AND CONTRASTED THIS VIEW WITH FRENCH POSITION THAT AREA SHOULD
BE ALLOTTED TO A STATE THAT, IN TURN, WOULD GRANT RIGHTS TO
A CATEGORY TO A FIRM. US REP QUIERIED WHY, IN LIGHT OF
COMMON INTEREST IN NOT GIVING STATES GENERAL JURISDICTION
OR SOVEREIGNTY OVER AREAS OF SEABED, STATE SHOULD GET

ALL RIGHTS IN AREA BECAUSE ONE PROSPECTIVE SUBLICENSEE WANTS RIGHTS IN ONE CATEGORY. PROBLEMS IN PARAS. 15, 16, 17, 18 AND 24 OF FRENCH DRAFT WERE IDENTIFIED IN THIS REGARD. FRENCH REP (LEGOUX) AGREED CATEGORIES IN PARA 21 US DRAFT WERE BETTER THAN CATEGORIES IN FRENCH DRAFT. FRENCH REP (MARTIN-SANE) REEMPHASIZED FRENCH ATTACHMENT TO HIGH SEAS FREEDOMS INCLUDING CABLES AND SCIENTIFIC RESEARCH, AGREED WITH US REP THAT PARAS 15, 16, 17 AND PART OF 24 SHOULD BE IN TREATY, AND OBSERVED THAT STATE POWER IN A BLOCK IS CAREFULLY LIMITED BY RULES IN FRENCH DRAFT. UK REP (ARCHER) AND JAPANESE REP (AKIMOTO) SUPPORTED US POSITION ON THIS ASPECT OF FRENCH DRAFT. USSR REP (KASMIN) EXPRESSED OPEN-MINDEDNESS ON SPECIFIC ISSUE, STRONG SUPPORT FOR HIGH SEAS FREEDOMS IN TREATY SUPPLEMENTED BY DETAILED RULES, AND CONCERN THAT GRANTING STATES RIGHTS TO AREA AND NOT JUST CATEGORIES OF MINERALS MIGHT CONFLICT WITH HIGH SEAS FREEDOMS. USSR REP AGREED WITH US REP'S COMMENTS ON PARA 18 FRENCH DRAFT.

6. US REP (RATINER) EXPLAINED US APPROACH TO ENVIRONMENTAL PROBLEMS. JAPANESE, USSR AND UK REPS SUPPORTED MINIMUM INTERNATIONAL STANDARDS. USSR REP DID NOT WANT INTERVENTION BY AUTHORITY THROUGH INSPECTION OR CONTROL OF ACTIVITY OF STATES IN THEIR BLOCKS. FRENCH REP (LEGOUX) EXPLAINED PARA 18 (C) ALLOTTED STATE THE POWER TO ISSUE ENVIRONMENTAL AND CONSERVATION RULES, PREFERABLY ON CASE-BY-CASE BASIS AND OBSERVED STATES COULD INTERVENE IN UNFORESEEN CIRCUMSTANCES. US REP EMPHASIZED US WAS NOT WILLING TO RELY ON INDIVIDUAL STATE ACTION TO PROTECT COMMON ENVIRONMENT.

7. US REPS (RATINER AND MOORE) CRITICIZED FRENCH DRAFT ON SUBMISSION OF WORK PLANS TO AUTHORITY PRIOR TO RECEIVING EXCLUSIVE RIGHTS. UK REP (ARCHER) FELT SUBMISSION OF WORK CONFIDENTIAL

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PAGE 04 USUN N 01858 01 OF 02 180112Z

PLANS NECESSARY IF WE ARE TO ACHIEVE LICENSING SYSTEM AND BECAUSE RESOURCE MANAGER NEEDS THIS INFORMATION. UK REP ALSO CRITICIZED US DRAFT ON SUBMISSION OF INFORMATION REGARDING EQUIPMENT TO PROTECT MARINE ENVIRONMENT BECAUSE NO EQUIPMENT MAY BE NECESSARY AND PROPRIETARY INFORMATION MAY BE INVOLVED. US REP (RATINER) SUGGESTED REDRAFTING MAY BE NECESSARY HERE. USSR REP (KASMIN) EXPLAINED THAT UNDER USSR SYSTEM, THIS IS INTERNAL MATTER OF THE STATE. PARA 11 OF FRENCH DRAFT IS NOT ACCEPTABLE TO USSR.

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PAGE 01 USUN N 01858 02 OF 02 180134Z

73

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ACDA-19 AEC-11 AGR-20 DOTE-00 FMC-04 INT-08 JUSE-00

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C O N F I D E N T I A L SECTION 2 OF 2 USUN 1858

8. US REP (RATINER) EXPLAINED POSITION ON DATA TURNOVER. UK REP FAVORED DATA TURNOVER IN GENERAL AND NOTED THAT DEMANDS FOR FULL DATA TURNOVER WILL BE GREAT, DATA SHOULD BE AVAILABLE FOR POSTERITY AND ACCESS TO DATA COULD BE TO OUR ADVANTAGE. UK REP FELT DATA TURNOVER WOULD NOT ENABLE EASIER NEGOTIATION ON SCIENTIFIC RESEARCH. SEVERAL DELEGATIONS CRITICIZED US DRAFT BECAUSE ARTICLE III ON DEEP DRILLING DEALS WITH SCIENTIFIC RESEARCH AND SHOULD BE PUT INTO SUBCOMMITTEE III. US REP (RATINER) AGREED THAT RTICLE III OF US DRAFT (DEEP DRILLING) SHOULD BE DELETED AND INTRODUCED IN SUBCOMMITTEE III. JAPANESE REP ACCEPTED US APPROACH ON DATA. ALTHOUGH HE STATED THAT DATA ON AREA NOT RELINQUISHED AFTER EXPLORATION STAGE SHOULD NOT GO TO AUTHORITY.

9. US REP (RATINER) STATED US POSITION THAT INSPECTION SHOULD BE LIMITED TO MINING SITE. USSR REP STATES SECOND THOUGHT BEING GIVEN TO PREVIOUS POSITION OPPOSING INSPECTION. JAPANESE REP INDICATED SHIFT IN JAPANESE POSITION TOWARDS ACCEPTANCE OF INSPECTION AND OBSERVED PORT INSPECTION MAY BE NECESSARY TO SATISFY LDCS. US REP AGREED TO CONSIDER THIS. UK
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PAGE 02 USUN N 01858 02 OF 02 180134Z

REP OBSERVED THAT OFF-SITE INSPECTION AT PORT OF
DISEMBARKATION MAY BE ESSENTIAL FOR REVENUE-SHARING CALCULATIONS
AND THAT DOCUMENTARY EVIDENCE SUBMITTED BY COMPANIES WOULD
BE INADEQUATE.

10. NO REP COULD OFFER A FORMULA FOR CALCULATING THE INCOME
OF AUTHORITY. UK REP (ARCHER) AGREED TO PREPARE A DISCUSSION
AND OPTIONS PAPER FOR NEXT MEETING ON SYSTEM OF PAYMENT.
US REP (RATINER) AGREED TO PREPARE PAPER ON VALUE OF NODULES.
FRENCH REP (LEGOUX) SUGGESTED THAT LDCS WILL INSIST ON PAY-
MENTS BEFORE PROFITS EXIST. SUCH AS ROYALTY ON PRODUCTION,
WHICH WOULD BE PAID ON ADVANCE AND LATER APPLIED AGAINST
PROFIT TAXES.

11. US REP (RATINER) EXPLAINED US POSITION ON SEPARATING
EXPLORATION AND EXPLOITATION STAGES, EMPHASIZING AUTOMATIC
CONVERSION OF RIGHTS. UK AND JAPANESE REPS (ARCHER AND
AKIMOTO) SUPPORTED SEPARATING STAGES BECAUSE OF NEED FOR
RELINQUISHMENT. FRENCH AND USSR REPS (LEGOUX AND KASMIN)
SUPPORTED ONE RIGHT FOR BOTH EXPLORATION AND EXPLOITATION
BECAUSE OF UNEASINESS WITH ASSURING AUTOMATIC CONVERSION.
FRENCH REP (MARTIN-SANE) SUGGESTED TACTICAL ADVANTAGE IN
PROPOSING ONE STAGE AND FALLING BACK TO TWO WITH
CONCURRENCE BY MOST REPS.

12. US REP (RATINER) ASKED WHETHER WE COULD NEGOTIATE RULES
AND REGULATIONS THAT DO NOT INCLUDED PROSPECTING STATE
AND, IF NOT, WHETHER WE WOULD AVOID INCLUDING SCIENTIFIC
RESEARCH. UK REP (ARCHER) PREFERRED TO INCLUDE PROSPECTING,
DEFINED BY REFUSAL TO PUBLISH RESULTS AND NOT INTENTION
CRITERIA, IN RULES AND REGULATIONS. WHILE JAPANESE REP
APPEARED TO AGREE WITH UK THAT RULES AND REGULATIONS WHICH
DON'T COVER PROSPECTING LACK CREDIBILITY, USSR AND FRENCH
REPS PRESSED FOR TACTICAL SCENARIO WHEREBY INITIAL DRAFT
DOES NOT COVER THIS ACTIVITY. UK REP AND FRENCH REP (LEGOUX)
OBJECTED TO INCLUSION OF "DREDGING AND DRILLING" UNDER
PROSPECTING STAGE IN US DRAFT SINCE "BOTTOM SAMPLING"
WAS ADEQUATE. ALL REPS AGREED THAT A PACKAGE WITHOUT PROSPECTING
CERTIFICATE, WITH SINGLE RIGHT FOR EVALUATION AND EXPLOITATION,
WAS 50 YEAR TERM WITHOUT REQUIREMENT TO ACHIEVE COMMERCIAL
PRODUCTION (USSR POSITION) IS NOT NEGOTIABLE.
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PAGE 03 USUN N 01858 02 OF 02 180134Z

13. US REP POINTED OUT THAT A NONNEGOTIABLE PACKAGE ON
RULES WOULD BE LIKELY TO RESULT ON BROAD RULEMAKING POWER IN
AUTHORITY. TACTICS TO ASSURE NEGOTIATION OF RULES IN TREATY
DISCUSSED, INCLUDING REFUSAL TO NEGOTIATE ANYTHING ELSE AND
NEED FOR LDC DRAFT. FRENCH REP (MARTIN-SANE) SUGGESTED
GROUP OF 5 DRAFTS BE REDRAFTED IN LIGHT OF THESE MEETINGS

AND BE KEPT IN OUR POCKETS FOR APPROPRIATE MOMENT AT CARACAS.
IT WAS AGREED TO INSIST ON RULES IN TREATY. GROUP
ALSO AGREED THAT EFFORT SHOULD BE MADE TO PERSUADE EITHER PINTO
OR ENGO TO INTRODUCE LDC RULES AND REGULATIONS DRAFT AT
CARACAS. IT WAS THOUGHT THAT THIS DRAFT SHOULD BE KEPT
SIMPLE AND NEUTRAL AND THUS MERE TOPIC HEADLINES OF ESSENTIAL
ELEMENTS OF RULES MIGHT BE USEFUL. US REP (RATINER) WAS
ASKED TO MAKE PERSONAL VISIT
TO BOTH PINTO AND ENGO BEFORE
CARACAS FOR THIS PURPOSE.

14. UK REP (ARCHER) EXPRESSED STRONG OPPOSITION TO
DECIDING COMPETING CLAIMS BY SEALED BID AUCTION AS IN US
DRAFT BECAUSE BIDS FAVOR WEALTHY NATIONS, UK WOULD BE
AT DISADVANTAGE, AND AUCTION WOULD APPEAR TO LDCE AS SELLING
COMMON HERITAGE. UK REP PREFERRED CONCILIATION FOLLOWED
BY RANDOM CHOICE WITHOUT PUBLICATION OF APPLICATIONS. US
REP (RATINER) OBJECTED TO USSR PROPOSAL THAT COASTAL
STATE HAVE A PREFERENCE BEYOND LIMITS OF NATIONAL
JURISDICTION IN ITS CASE OF COMPETING CLAIMS. JAPANESE REP
(AKIMOTO) FAVORED CONCILIATION FOLLOWED BY AUCTION.

15. DURING REVIEW OF FRENCH, US AND JAPANESE DRAFTS,
ADDITIONAL ISSUES WERE RAISED. JAPANESE REP (AKIMOTO)
RAISED ISSUE OF WHICH STATE WOULD BE RESPONSIBLE IF GROUP OF
STATES OR MULTINATIONAL JOINT VENTURE HELD RIGHTS, POSSIBLE
CONFLICT OF JURISDICTION BETWEEN TRIBUNAL AND NATIONAL
COURTS, AND FAULT OR ABSOLUTE LIABILITY OF OPERATOR.
USSR REP (KASMIN) OPPOSED ORDER BY TRIBUNAL TO STATE TO
ORDER OPERATOR TO COMPLY WITH CONVENTION AS INTERFERENCE
IN INTERNAL AFFAIRS AND OPPOSED FREE TRANSFERABILITY
OF RIGHTS. FRENCH REP (MARTIN-SANE) INDICATED THAT
FRENCH WOULD REVIEW POSITION OPPOSING PRIVATE PARTY ACCESS
TO TRIBUNAL. UK REP (ARCHER) QUESTIONED US DRAFT ALLOWING
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PAGE 04 USUN N 01858 02 OF 02 180134Z

DRILLING AS DEEP AS 300 METERS AND EXPRESSED PREFERENCE
FOR AUTHORITY TO PREVENT HIGH GRADING. DRAFTING CORRECTIONS
WRE SUGGESTED FOR ALL DRAFTS.

16. IT WAS AGREED THAT US REP (RATINER) WOULD PRESENT ORAL
REPORT ON THESE MEETINGS TO HEADS OF DELEGATIONS MEETING IN
LONDON. QUESTIONS REGARDING ROLE OF STATES AND NATURAL
OR JURISDICAL PERSONS, QUOTA SYSTEMS, AND TACTICS
TO ASSURE NEGOTIATION ON RULES WILL BE EMPHASIZED.

17. ALL REPS THANKED US FOR HOSTING THE MEETING AND
AGREED TALKS HAD BEEN USEFUL.
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